

### **REMARKS**

Claims 1-8 were filed on March 11, 2004. A first Office Action was mailed on October 6, 2005. A Response "A" was sent to the USPTO by applicant on March 22, 2006.

In a second Office Action mailed on June 13, 2006, the Examiner rejected Claims 1 and 4-6 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,336,527 B1 to Donald Metz, ("the Metz '527 Patent") in view of U.S. Patent No. 5,457,838 to Kenneth Gelder, et al. ("the Gelder '838 Patent") or U.S. Patent No. 6,431,819 B1 to Norbert Hahn ("the Hahn '819 Patent"). Claims 1, 2, and 4-6 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,276,496 B1 to Hageman, et al. ("the Hageman '496 Patent") in view of U.S. Patent No. 6,033,174 to James C. Alexander ("the Alexander '174 Patent"). Claim 7 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over the Metz '527 Patent in view of the Gelder '838 Patent, as applied to Claim 1, and further in view of U.S. Patent No. 6,805,471 B2 to John Strelnieks ("the Strelnieks '471 Patent"). Claim 8 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over the Hageman '496 Patent in view of the Alexander '174 Patent, as applied to Claim 1, and further in view of U.S. Patent No. 5,582,498 to Springer, et al. ("the Springer '498 Patent"). Claim 3 has been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and intervening Claim 2.

Applicant has considered the second Office Action and has amended the claims. Specifically, Claim 3 has been rewritten in independent form as new independent Claim 9. Based upon these amendments and the following remarks, Applicant respectfully submits that the claims remaining in the application, i.e. Claims 1-9, are in condition for allowance.

## CLAIM REJECTIONS UNDER 35 U.S.C. § 103(a)

### Claims 1 and 4-6

The Examiner has rejected Claims 1 and 4-6 under 35 U.S.C. §103(a) as unpatentable over the Metz '527 Patent in view of the Gelder '838 Patent or the Hahn '819 Patent. More specifically, the Examiner states that the invention described in the Metz '527 Patent shows an apparatus for chocking a tire of a vehicle in a docking bay during loading or unloading and which includes a chock means, a sensor means, a controller, and an indicator means. The Examiner states that the invention described in the Metz '527 Patent varies from Claim 1 only by having relays forming the basics of the controller instead of having a programmable microprocessor, but that the Gelder '838 Patent and/or the Hahn '819 Patent show that a controller with solenoid controls or controllers with electromechanical relay circuits are art recognized equivalents of programmable controllers, and that it would have been obvious for one having ordinary skill in the art to combine the teachings of the Metz '527 Patent with either the Gelder '838 Patent or the Hahn '819 Patent to arrive at Applicant's claimed invention.

However, a person with ordinary skill in the art would not have found it obvious to combine or modify the references cited by the Examiner. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990). Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination. *In re Geiger*, 815 F.2d 686, 688, 2 U.S.P.Q.2d 1276, 1278 (Fed. Cir. 1987).

It would not have been obvious to an individual with ordinary skill in the art to combine the teachings of the Metz '527 Patent with either the Gelder '838 Patent or the Hahn '819 Patent.

More specifically, the Metz '527 Patent, teaches a device for chocking a wheel of a vehicle. In contrast, the Gelder '838 Patent and the Hahn '819 Patent describe an automatic dock leveler and a hook mechanism for restraining a truck at a docking bay, respectively. Neither the Gelder '838 Patent nor the Hahn '819 Patent teach or suggest any element that deals with the chocking of wheels for a heavy-duty vehicle. Therefore, it would not have been obvious to a person having ordinary skill in the art to combine the teachings of the Metz '527 Patent with the teachings of either the Gelder '838 Patent or the Hahn '819 Patent to arrive at Applicant's claimed invention.

Based on the foregoing, in particular it would not have been obvious to modify the apparatus of the Metz '527 Patent as suggested by the Examiner and to incorporate a microcontroller as shown in the Gelder '838 Patent or the Hahn '819 Patent. This is so because a person having ordinary skill in the art would not have found it obvious to combine the Metz '527 Patent with either the Gelder '838 Patent or the Hahn '819 Patent, since while the Metz '527 Patent is directed to a wheel chock for a vehicle, the Gelder '838 Patent and the Hahn '819 Patent are not, but rather are directed to completely different applications that have nothing to do with a structure for chocking the wheels of a heavy-duty vehicle. Because it would not have been obvious to combine the teachings of the Metz '527 Patent with either the Gelder '838 Patent or the Hahn '819 Patent, the Examiner's rejection is improper and claims 1 and 4-6 are in condition for allowance.

#### Claims 1, 2, and 4-6

The Examiner has rejected Claims 1, 2, and 4-6 under 35 U.S.C. §103(a) as being unpatentable over the Hageman '496 Patent in view of the Alexander '174 Patent. More particularly, the Examiner states that the invention disclosed in the Hageman '496 Patent includes a chock means, sensor means, a controller, and indicator means but differs from

Applicant's claimed invention because it does not specify what type of proximity sensor is being used and it also does not specify which type of controller is being used. The Examiner then argues that inductive proximity sensors and programmable controllers are known in the art and are taught by the Alexander '174 Patent and that it would have been obvious to a person having ordinary skill in the art to modify the docking device described in the Hageman '496 Patent by using an inductive proximity switch for the proximity sensor and by having it controlled by a programmable logic controller, as taught by the Alexander '174 Patent. However, it would not have been obvious for one of ordinary skill in the art to combine the teachings of the Hageman '496 Patent with the Alexander '174 Patent.

More particularly, the Alexander '174 Patent describes a vehicle restraint that hooks onto the rear portion of the vehicle. The Alexander '174 Patent does not suggest or teach that the inductive proximity switch or programmable controller used in the hooking device described in that patent might be used in a wheel chocking apparatus. Thus, it would not have been obvious to one having ordinary skill in the art to combine the hooking device suggested in the Alexander '174 Patent with the chocking device described in the Hageman '496 Patent, as they are clearly different applications.

Based on the foregoing, it would not have been obvious to combine the Hageman '496 Patent with the Alexander '174 Patent, and therefore, Claims 1, 2, and 4-6 are in condition for allowance.

Furthermore, because Claims 2-8 depend directly or indirectly from allowable Claim 1, they too are in condition for allowance.

## OBJECTIONS

Claim 3 has been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and intervening Claim 2. Applicant has rewritten Claim 3 as newly submitted independent Claim 9 incorporating all of the limitations of the base claim and intervening Claim 2.

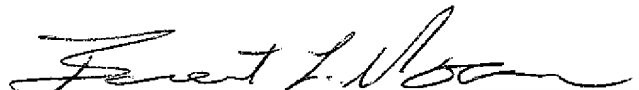
Applicant was the first to recognize the advantages of combining a non-mechanical, non-contact type sensor with a chock means, a programmable microcontroller, and an indicator means connected to the microcontroller for use in a docking bay for loading and unloading a heavy-duty vehicle. By combining the elements as Applicant has, a new and unexpected result has been achieved.

The results produced by Applicant have been long sought after by those skilled in the art, but until Applicant's invention the results have been unobtainable.

In view of the above, it is submitted that the Claims remaining in the application now are in condition for allowance and reconsideration of the rejections and objections is respectfully requested.

Respectfully submitted,

BUCKINGHAM, DOOLITTLE & BURROUGHS, LLP



By: David P. Dureska, Registration No. 34,152  
Brent L. Moore, Registration No. 42,902

BLM/cam

4518 Fulton Drive, N.W.  
P. O. Box 35548  
Canton, OH 44735-5548  
Telephone: (330) 491-5289  
Facsimile: (330) 252-5454

E-Mail: bmoore@bdblawn.com  
Attorney Docket No : HEND-BQ (45007-263)

«CT2:515917\_v1»